

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
JESUS MONTERROSO,
Defendant.

Case No. 15-cr-0335 RMW

DETENTION ORDER

Hearing: December 8, 2015

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), the court on December 8, 2015, held a detention hearing to determine whether any condition or combination of conditions will reasonably assure the appearance of the defendant Monterroso as required and the safety of any other person and the community. Defendant Monterroso was present, represented by his attorney AFPD Rita Bosworth. The United States was represented by Assistant U.S. Attorney John Bostic. Monterroso is charged by indictment with illegal reentry after deportation, in violation of title 8 U.S.C. § 1326. The defendant is presumed innocent of the charge and has entered a not guilty plea.

The detention hearing was held publicly. Both parties were advised of their opportunity to call witnesses and to present evidence. Both parties may appeal this detention order to the assigned Senior District Court Judge, Ron Whyte.

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I. PRESUMPTIONS

No presumption of detention applies in this case.

II. WRITTEN FINDINGS OF FACT AND STATEMENT OF REASONS

The Court has taken into account the factors set out in 18 U.S.C. § 3142(g) and all of the information submitted at the hearing (via proffers from counsel) and finds as follows:

The Court adopts the facts set forth in the Pretrial Services (PTS) Report prepared

December 7, 2015, supplemented by information presented at the hearing. The Court finds by more than a preponderance of the evidence that the defendant poses a risk of non-appearance and that no condition or combination of conditions can reasonably mitigate the risk. The following factors establish the risk of non-appearance: multiple failures to appear; bench warrants issued; bail forfeited on three occasions; report of absconding while on parole supervision; and lack of verified employment. Considering these same factors, plus a felony conviction for assault with a firearm on a person in 2011, the Court is concerned about the danger to the community that would be caused by release of the defendant.

However, the Court finds that the government has not established by more than clear and convincing evidence that no combination of conditions could be imposed to mitigate the risk. In sum, the Court orders the defendant detained due to the high risk of non-appearance.

III. DETENTION DIRECTIONS

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on the request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

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2 IT IS SO ORDERED.
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4 Date: December 8, 2015
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Nathanael M. Cousins
United States Magistrate Judge